

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 CHIOKE GADSDEN,

4 Plaintiff

5 v.

6 JAMES DONNELLY et al.,

7 Defendants

Case No. 3:17-cv-00728-MMD-CBC

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DISTRICT OF NEVADA	
BY:	DEPUTY

## 8 I. DISCUSSION

9 On October 2, 2018, the Court issued a screening order dismissing some claims  
10 with prejudice, dismissing other claims with leave to amend, and permitting some claims  
11 to proceed. (ECF No. 9 at 21-23). The Court granted Plaintiff 30 days from the date of  
12 that order to file an amended complaint curing the deficiencies of his complaint. (*Id.* at  
13 24). The Court detailed which claims would proceed if Plaintiff chose not to file an  
14 amended complaint. (See *id.* at 24-25). Plaintiff has not filed an amended complaint.

15 Pursuant to the screening order, this action will proceed on Count I, alleging a First  
16 Amendment retaliation claim against Kassebaum based on Kassebaum's denying  
17 Plaintiff access to the grievance process; Count I, alleging a Fourteenth Amendment  
18 access to grievance procedures claim against Kassebaum; Count II, alleging a First  
19 Amendment free exercise of religion claim against Kassebaum for taking Plaintiff's book  
20 of shadows; Count II, alleging a Fourteenth Amendment claim against Kassebaum and  
21 Bautista for an intentional authorized deprivation; Count II, alleging a violation of RLUIPA  
22 against Kassebaum for taking Plaintiff's book of shadows; Count III, alleging a First  
23 Amendment retaliation claim against Kassebaum based on her filing of false disciplinary  
24 charges; Count IV, alleging supervisory liability for Kassebaum's acts of retaliation and  
25 intentional deprivation against Olivas, Donnelly, Steinheimer, Terrance, and East; Count  
26 V, alleging a Fourteenth Amendment procedural due process claim against Donnelly,  
27 Olivas, and Kassebaum based on Plaintiff's placement in administrative segregation;

1 Count VI, alleging a First Amendment retaliation claim against Kassebaum, Olivas, and  
2 Donnelly based on Plaintiff's placement in administrative segregation; Count VII, alleging  
3 a First Amendment free exercise claim against Donnelly, Kassebaum, and Olivas based  
4 on Plaintiff's placement in administrative segregation; and Count VII, alleging a RLUIPA  
5 claim against Donnelly, Kassebaum, and Olivas based on Plaintiff's placement in  
6 administrative segregation. (*Id.* at 24-25).

7 **CONCLUSION**

8 For the foregoing reasons, it is ordered that, pursuant to the Court's screening  
9 order (ECF No. 9), this action will proceed on Count I, alleging a First Amendment  
10 retaliation claim against Kassebaum based on Kassebaum's denying Plaintiff access to  
11 the grievance process; Count I, alleging a Fourteenth Amendment access to grievance  
12 procedures claim against Kassebaum; Count II, alleging a First Amendment free exercise  
13 of religion claim against Kassebaum for taking Plaintiff's book of shadows; Count II,  
14 alleging a Fourteenth Amendment claim against Kassebaum and Bautista for an  
15 intentional authorized deprivation; Count II, alleging a violation of RLUIPA against  
16 Kassebaum for taking Plaintiff's book of shadows; Count III, alleging a First Amendment  
17 retaliation claim against Kassebaum based on her filing of false disciplinary charges;  
18 Count IV, alleging supervisory liability for Kassebaum's acts of retaliation and intentional  
19 deprivation against Olivas, Donnelly, Steinheimer, Terrance, and East; Count V, alleging  
20 a Fourteenth Amendment procedural due process claim against Donnelly, Olivas, and  
21 Kassebaum based on Plaintiff's placement in administrative segregation; Count VI,  
22 alleging a First Amendment retaliation claim against Kassebaum, Olivas, and Donnelly  
23 based on Plaintiff's placement in administrative segregation; Count VII, alleging a First  
24 Amendment free exercise claim against Donnelly, Kassebaum, and Olivas based on  
25 Plaintiff's placement in administrative segregation; and Count VII, alleging a RLUIPA  
26 claim against Donnelly, Kassebaum, and Olivas based on Plaintiff's placement in  
27 administrative segregation.

28 It is further ordered that given the nature of the claim(s) that the Court has

1 permitted to proceed, this action is stayed for ninety (90) days to allow Plaintiff and  
2 Defendant(s) an opportunity to settle their dispute before an answer is filed or the  
3 discovery process begins. During this ninety-day stay period, no other pleadings or  
4 papers shall be filed in this case, and the parties shall not engage in any discovery. The  
5 Court will refer this case to the Court's Inmate Early Mediation Program, and the Court  
6 will enter a subsequent order. Regardless, on or before ninety (90) days from the date  
7 this order is entered, the Office of the Attorney General shall file the report form attached  
8 to this order regarding the results of the 90-day stay, even if a stipulation for dismissal is  
9 entered prior to the end of the 90-day stay. If the parties proceed with this action, the  
10 Court will then issue an order setting a date for Defendants to file an answer or other  
11 response. Following the filing of an answer, the Court will issue a scheduling order setting  
12 discovery and dispositive motion deadlines.

13 It is further ordered that "settlement" may or may not include payment of money  
14 damages. It also may or may not include an agreement to resolve Plaintiff's issues  
15 differently. A compromise agreement is one in which neither party is completely satisfied  
16 with the result, but both have given something up and both have obtained something in  
17 return.

18 It is further ordered that if any party seeks to have this case excluded from the  
19 inmate mediation program, that party shall file a "motion to exclude case from mediation"  
20 on or before twenty-one (21) days from the date of this order. The responding party shall  
21 have seven (7) days to file a response. No reply shall be filed. Thereafter, the Court will  
22 issue an order, set the matter for hearing, or both.

23 It is further ordered that the Clerk of the Court will electronically SERVE a copy of  
24 this order, the original screening order (ECF No. 9) and a copy of Plaintiff's complaint  
25 (ECF No. 1-2) on the Office of the Attorney General of the State of Nevada, by adding the  
26 Attorney General of the State of Nevada to the docket sheet. This does not indicate  
27 acceptance of service.

28

1        It is further ordered that the Attorney General's Office shall advise the Court within  
2 twenty-one (21) days of the date of the entry of this order whether it will enter a limited  
3 notice of appearance on behalf of Defendants for the purpose of settlement. No defenses  
4 or objections, including lack of service, shall be waived as a result of the filing of the  
5 limited notice of appearance.

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7        DATED THIS 8<sup>th</sup> day of November 2018.

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\_\_\_\_\_  
United States Magistrate Judge

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

**CHIOKE GADSDEN,**

## **Plaintiff**

**Case No. 3:17-cv-00728-MMD-CBC**

v.

JAMES DONNELLY et al.,

## Defendants

## **REPORT OF ATTORNEY GENERAL RE: RESULTS OF 90-DAY STAY**

**NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.  
THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

On \_\_\_\_\_ [the date of the issuance of the screening order], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

## **REPORT FORM**

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

**Situation One: Mediated Case:** The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check ONE of the six statements below and fill in any additional information as required, then proceed to the signature block.]

A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

— A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

- 1       No mediation session with a court-appointed mediator was held during the  
2      90-day stay, but the parties have nevertheless settled the case. (If this box  
3      is checked, the parties are on notice that they must SEPARATELY file a  
4      contemporaneous stipulation of dismissal or a motion requesting that the  
Court continue the stay in this case until a specified date upon which they  
will file a stipulation of dismissal.)
- 5       No mediation session with a court-appointed mediator was held during the  
6      90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter  
date].
- 7       No mediation session with a court-appointed mediator was held during the  
8      90-day stay, and as of this date, no date certain has been scheduled for  
such a session.
- 9       None of the above five statements describes the status of this case.  
10     Contemporaneously with the filing of this report, the Office of the Attorney  
11     General of the State of Nevada is filing a separate document detailing the  
status of this case.

12     \* \* \* \* \*

13     **Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned  
14     to mediation with a court-appointed mediator during the 90-day stay; rather, the  
15     parties were encouraged to engage in informal settlement negotiations. [If this  
16     statement is accurate, check ONE of the four statements below and fill in any additional  
17     information as required, then proceed to the signature block.]

- 18      The parties engaged in settlement discussions and as of this date, the  
19     parties have reached a settlement (even if the paperwork to memorialize  
the settlement remains to be completed). (If this box is checked, the parties  
20     are on notice that they must SEPARATELY file either a contemporaneous  
stipulation of dismissal or a motion requesting that the Court continue the  
21     stay in this case until a specified date upon which they will file a stipulation  
of dismissal.)
- 22      The parties engaged in settlement discussions and as of this date, the  
23     parties have not reached a settlement. The Office of the Attorney General  
therefore informs the Court of its intent to proceed with this action.
- 24      The parties have not engaged in settlement discussions and as of this date,  
25     the parties have not reached a settlement. The Office of the Attorney  
General therefore informs the Court of its intent to proceed with this action.
- 26      None of the above three statements fully describes the status of this case.  
27     Contemporaneously with the filing of this report, the Office of the Attorney  
28     General of the State of Nevada is filing a separate document detailing the  
status of this case.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

Attorney Name: \_\_\_\_\_ Print \_\_\_\_\_ Signature \_\_\_\_\_

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